

CITY COUNCIL
ATLANTA, GEORGIA

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14-O-1378

AN ORDINANCE BY COUNCILMEMBER MICHAEL JULIAN BOND TO AMEND THE BUILDING CODE OF THE CITY OF ATLANTA REGARDING REQUESTS FOR REFUNDS OF BUILDING PERMIT FEES; AND FOR OTHER PURPOSES.

Workflow List:

Atlanta City Council	Completed	07/24/2014 12:27 PM
Atlanta City Council	Pending	
Community Development & Human Resources Committee	Pending	
Mayor's Office	Pending	

HISTORY:

07/21/14	Atlanta City Council	REFERRED WITHOUT OBJECTION
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RESULT:	REFERRED WITHOUT OBJECTION	Next: 7/29/2014 12:30 PM
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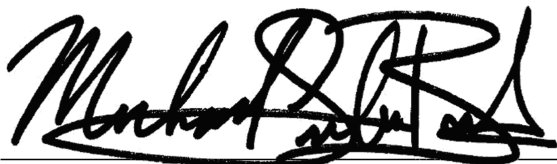
RESULT:	REFERRED WITHOUT OBJECTION	Next: 7/29/2014 12:30 PM
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Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

CITY COUNCIL
ATLANTA, GEORGIA

14-O-1378

SPONSOR SIGNATURES

A handwritten signature in black ink, appearing to read "Michael Julian Bond", written over a horizontal line.

Michael Julian Bond, Councilmember, Post 1 At-Large

AN ORDINANCE BY COUNCILMEMBER MICHAEL JULIAN BOND TO AMEND THE BUILDING CODE OF THE CITY OF ATLANTA REGARDING REQUESTS FOR REFUNDS OF BUILDING PERMIT FEES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta Building Code regulates the manner in which building permit fees within the City are calculated and charged; and

WHEREAS, the amount of building permit fees charged by the Office of Buildings for certain types of building permits is based on the square footage of the construction type being applied to a valuation table in the Building Code which results in an expected job cost valuation; and

WHEREAS when an applicant submits an application for a building permit where the valuation table will be employed, the applicant is required to pay a plan review fee which is estimated to be one-half of amount of the fee based on the applicant's projection of their expected cost to construct the project which is the subject of the application; and

WHEREAS, when building plans are approved after review and the permit is ready for issuance, the Office of Buildings calculates the remaining building permit fee based upon its job cost valuation by using the valuation table as the basis for their job cost estimate, crediting the applicant's plan review fee and imposing the final permit fee; and

WHEREAS, for the type of building permit when the valuation table is employed, the job cost valuation is multiplied by .0007 for each one thousand dollars of the job cost valuation to yield the amount of the principal building permit fee; and

WHEREAS, those building permit fees based on the valuation table may from time to time result in job cost valuations by the Office of Buildings that are above the amount which the applicant believes to be the true cost to conduct the project which is the result of the application; and

WHEREAS, it is in the best interest of the City and those seeking to construct projects in the City for there to be a clearly defined method to determine whether the City's job cost calculation will actually exceed the true cost to construct the project which is the result of the application; and

WHEREAS, the provision of an appeal process that also will provide a method to allow applicants to continue with the construction of their projects will separate the issue of permit cost from the City's interest in allowing development project to continue; and

WHEREAS, such a process will allow those seeking to construct projects in the City to have assurance that their claim will ultimately be determined in a manner that will allow the project to go forward and preserve their right to seek a refund; and

WHEREAS, the creation of this administrative process, requires the approval of the City Council through an amendment to the Building Code;

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: The Building Code of the City of Atlanta Georgia which appears in Appendix A of Part III at Chapter I entitled "Administration" is hereby amended by adding a new subsection as a part of Section 104.3, such new subsection to be entitled "Permit Fee Refund Requests for Completed Projects," and which is to be numbered as Section 104.3.1 and which shall read as follows:

104.3.1. PERMIT FEE REFUND REQUESTS FOR COMPLETED PROJECTS.

(a) Upon full payment of the building permit fee calculated by the director, the owner of the property which is the subject of the permit (the "owner") has the right to give notice to the director in compliance with this section that the job cost calculation on which the permit fee is based will exceed the actual cost to construct the building or structure which is the subject of the permit (the "project") and seek a refund under the procedures set forth herein.

(b) The procedure set forth in this section shall be applied only where a project is actually completed and a temporary certificate of occupancy is issued except where procedures are authorized for projects where the permit has been issued but no work has been undertaken. There are no refunds authorized for projects in which the work is abandoned before the issuance of the certificate of occupancy for the project for which

the request was filed or where the building permit has been revoked or has expired and such revocation or expiration has become final.

(c) The right to and method for seeking a review of the director's determination of the amount of the building permit fee for a completed project and a decision as to whether the amount of the refund sought by the applicant on a completed project will be recommended to the governing authority under the procedures set forth herein is a refund request that is processed as an administrative appeal to the director.

(d) All notices from the director and decisions of the director denying any refund request shall be in writing. Appeals of such denials may proceed in the manner set forth elsewhere in the section. The director shall not be required to send any notice to any person other than a person designated under these procedures and it shall be the responsibility of the owner to update the contact person and address to which notices shall be sent in the event that either has changed.

(e) The director shall not be required to give notice that a deadline set forth in this section is about to expire. This section shall be considered sufficient notice of the actions required by such deadlines, and sufficient notice that the failure to meet such deadlines may result in the denial of a refund request.

(f) The procedures, under which the request for a refund authorized by this section is submitted, processed and either recommended to the governing authority by the director or denied by the director, shall be as set forth herein but the director is authorized for good cause shown in writing to extend certain deadlines as stated herein; provided however that the date to file the initial notice of the request for refund shall under no circumstances be extended.

(g) The project shall have required the submission of plans and the calculation of the permit fee from such plans using Table 100.

(h) Initial notice of the request for refund must be given to the director "Within ten (10) days from the date of issuance of the permit for which the fee was paid by submitting the same to the director in the same manner as the building permit

application was filed and must contain, at a minimum:

- (i) the permit number;
 - (ii) the street address of the project;
 - (iii) the permit fee amount paid;
 - (iv) the permit holder's approximate expected cost to construct that part of the project for which the refund is sought;
 - (v) a demand for refund and a statement that the amount of the demand;
 - (vi) the name and street address for the person authorized to receive notices from the director. No post office box may be used to receive notice from the director;
 - (vii) a statement agreeing that the payment of all reasonable costs associated with the director's review of the refund request will be paid before a final certificate of occupancy is issued.
- (i) The director shall cause the initial notice of refund request to be made a part of the building permit application file but it shall be the responsibility of the owner to obtain an acknowledgment of the date that the refund request was filed with the director and maintain its own record of when such notice was actually given. Unless the owner can produce proof of timely notice or unless the director has sufficient proof of the date of receipt, the director is not authorized to process such request.
- (i) The permit holder or the leaseholder of the property on which project is to be constructed shall have the same rights as the owner of the property to seek a refund of the permit fee charged but in no case shall the director be required to extend the time for the filing on an initial notice of a request for refund based on the failure of the permit holder to receive authorization to file the request however and from whom such authorization must be obtained.

(j) Within thirty (30) days of the date of the initial notice of the request for refund, two sworn affidavits shall be submitted to the director and unless such affidavits are submitted, the director is not authorized to process the request for refund and shall deny the request; provided however that for good cause shown in a written request submitted to the director prior to the expiration of this period, the director may extend the time for compliance for a period not to exceed thirty (30) additional days:

(i) the permit applicant shall submit an affidavit from a professional engineer or architect, registered in the State of Georgia, that the costs stated in the notice given to the director are not expected to exceed the actual cost to construct the project and shall specifically identify and agree to produce the data on which this statement is based after the certificate of occupancy is issued;

(ii) the owner of the property, the leaseholder or the person who is responsible for payment of the cost to construct the project shall file an affidavit with the director stating that all forms of payment used to pay the total amount that will be paid to construct the project will be submitted as proof of payment of the job cost amount. The proof of payment is required to confirm that the job cost calculation on which the permit fee was based did exceed the actual cost to complete the project such that a refund is appropriate and will agree to produce such documents after the certificate of occupancy is issued in conjunction with the audit required by this section;

(iii) both affidavits shall contain a statement that the affiant has on behalf of all entities who have or will provided goods or services to the project or have made or will make any payments to those who have provided or will provide goods or services to the project have consented or will consent to produce any document reasonably relevant to the project when requested by the director and will produce such documents upon the directors request;

(iv) it shall not be sufficient for the purpose of the refund request to identify contract documents as the only documents which shall form the basis for either affidavit or the refund request and unless both affidavits contain an agreement to

produce any document reasonably relevant to the project when requested by the director and to produce such documents upon the directors request, the director may deny the request;

(v) any person who knowingly and willfully makes false statements in an affidavit used or attempted to be used to obtain a refund pursuant to this section may be prosecuted under the City Code or applicable state laws, including without limitation O.C.G.A. 1§ 6-10-71, and punished in the manner provided for conviction of such violations.

(k) With respect to any refund request under an issued permit which is abandoned or withdrawn after work is begun but for which no temporary certificate of occupancy is issued or which has been revoked by the director prior to the issuance of the certificate of occupancy and such revocation has become final, the refund request shall be deemed withdrawn.

(1) The owner shall, within thirty (30) days after issuance of the temporary certificate of occupancy notify the director of the name of a certified public accountant licensed to practice in the State of Georgia (the "auditor") that will conduct an independent audit of the project (the "audit") on behalf of the owner for the purpose of seeking a refund from the City. The auditor's report shall make a certified finding as to whether the affidavits submitted by the architect or engineer and the owner fairly represent the cost associated with the construction of the project and the amounts actually paid and if such representations by the architect or engineer and owner as made in their affidavits do or do not fairly represent the costs and payments associated with the construction of the project and state their opinion as to the amount by which the refund claim set forth in the affidavits should be adjusted.

(i) The owner shall be responsible for engaging the auditor to conduct the audit and shall pay all costs associated with conducting the audit.

(ii) The failure of the owner to notify the director in writing within sixty (60) days after issuance of the temporary certificate of occupancy that the auditor has been engaged and will complete the audit within thirty (30) days is cause for the request to be denied.

(iii) A temporary certificate of occupancy issued for the purposes of a refund request shall meet all requirements for the issuance of a final certificate of occupancy so that the most accurate cost to complete the project can be obtained. It shall be in the owner's sole discretion as to whether and when a temporary certificate of occupancy shall be requested and the director may issue such temporary certificate of occupancy under terms and conditions that would otherwise be allowed by the Building Code for the issuance of a final certificate of occupancy.

(iv) Until the time required for final submission of the independent audit, the architect or engineer may amend the amount of the refund request to reflect any change in actual costs which would affect the amounts stated in the initial affidavit by submission of a new affidavit amending the first affidavit.

(m) The owner shall present the result of the audit to the director within ninety (90) days after issuance of the temporary certificate of occupancy. The director may extend the time for submission upon request but the failure to submit the audit to the director by the agreed upon date shall be cause for the request to be denied.

(n) In evaluating the audit, the director shall be entitled to receive any documentation relied upon by the auditor or such other documents as the director may reasonably deem relevant for review; provided however that such request shall be made by the director within thirty (30) days of the owner's submission. The director may but is not required to engage an auditor to review the submission of the owner. The owner's failure to produce the requested documents to the director within thirty (30) days without cause shall allow the director to deny the request.

(o) Within sixty (60) days after the director has received all documents requested, the director shall make reasonable efforts to issue a written finding approving the amount of the refund requested, recommending a different amount be refunded; or denying the refund request; provided however that the director's failure to make a finding shall in no circumstance be considered the director's approval of the request.

(i) If the owner disputes the director's denial of the administrative refund request or the directors decision to recommend a different amount and pays the director's cost to conduct the review, the owner may appeal from such decision to the Superior Court of Fulton County by filing with the clerk of said court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law.

(1) Such appeal shall be filed within 30 days after decision of the director is rendered. Upon such filing, the clerk of the superior court shall give immediate notice thereof to the director.

(2) Such appeal to superior court shall be served on the director as provided by law.

(3) Within the time prescribed by law, the director shall cause to be filed with said clerk a duly certified copy of the administrative record created in connection with the refund request and such evidence on which his decision was based; provided however that the building plans for the project shall not be submitted as a part of the administrative record of the refund request unless the specific plan sheets are identified by the owner and the owner agrees to pay the cost of copying the original plans to be submitted to the court.

(4) The process stated herein may also be used to appeal the director's denial of a refund request for failure to meet the deadlines required for the processing of the refund request provided however that the appeal of the director's denial of the refund request for failure to meet any of the deadlines for submission of documents shall be filed within thirty (30) days of the date of the written denial.

(ii) If no appeal of the director's decision to recommend that a different amount be refunded is filed within the thirty (30) days after such decision or the owner waives such appeal, the administratively approved request refund may proceed in the same manner as an approval.

(iii) The director may upon payment of the costs necessary to engage an auditor to review the submission of the owner issue a final certificate of occupancy.

(iv) The temporary certificate of occupancy issued for the purpose of processing the refund request shall not remain in effect for more than 180 days after the completion of the director's audit by which time, the owner or lessor shall have satisfied its obligations to pay the cost for such audit ordered by the director. The failure to obtain a final certificate of occupancy shall be cause for the director to order the discontinuance of the occupancy of the structure.

(p) After administratively approving a request for refund and payment by the owner of the director's cost to conduct the review, the director shall within a reasonable time cause the necessary legislation to be submitted to the governing authority. No administratively approved request refund of any permit fee under the process provided in this by section shall be paid until it has been legislatively adopted by the governing authority and approved by the mayor consistent the City Code and Charter.

(q) An appeal of the denial by the governing authority of the refund request shall be as provided by applicable law

(r) Except for those permit fees which required the submission of plans and the calculation of the amount of the permit fee using the data set forth in Table 100, no refund of any part of any other fee, including without limitation, impact fees, may be requested under this section and the director is not authorized to accept such requests for refunds. The director's refusal to accept a refund request which did not require the submission of plans and the calculation of the amount of the permit fee using the data set forth in Table 100 shall not be subject to the appeal provisions of this section.

(s) This section is provided solely to allow the Office of Buildings to make a determination through the director whether the determination of the job cost valuations by the use of Table 100 have resulted in a fee amount that is consistent with the actual cost to construct a project and is not intended for any other purpose, including without

limitation, the appeal of fees determined by other means.

Section 2: The Mayor by and through the director of the Office of Buildings or a designee is authorized to undertake such steps as are necessary to implement the procedures set forth in this ordinance.

Section 3: The process set forth in this ordinance may be utilized by any current applicant who has not paid a final building permit fee or by any current applicant who has paid such fee within thirty (30) days prior to the effective date of this ordinance or who has an outstanding claim for refund that has not been otherwise resolved by action of the City Council and who declines a proposed resolution made available by the director of the Office of Buildings.

Section 4: This ordinance shall become effective when signed by the Mayor or as otherwise provided by operation of law.

AN ORDINANCE BY:

for negotiate
AN ORDINANCE TO AMEND THE BUILDING CODE OF THE CITY OF ATLANTA REGARDING REQUESTS FOR REFUNDS OF BUILDING PERMIT FEES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta Building Code regulates the manner in which building permit fees within the City are calculated and charged; and

WHEREAS, the amount of building permit fees charged by the Office of Buildings for certain types of building permits is based on the square footage of the construction type being applied to a valuation table in the Building Code which results in an expected job cost valuation; and

WHEREAS when an applicant submits an application for a building permit where the valuation table will be employed, the applicant is required to pay a plan review fee which is estimated to be one-half of amount of the fee based on the applicant's projection of their expected cost to construct the project which is the subject of the application; and

WHEREAS, when building plans are approved after review and the permit is ready for issuance, the Office of Buildings calculates the remaining building permit fee based upon its job cost valuation by using the valuation table as the basis for their job cost estimate, crediting the applicant's plan review fee and imposing the final permit fee; and

WHEREAS, for the type of building permit when the valuation table is employed, the job cost valuation is multiplied by .0007 for each one thousand dollars of the job cost valuation to yield the amount of the principal building permit fee; and

WHEREAS, those building permit fees based on the valuation table may from time to time result in job cost valuations by the Office of Buildings that are above the amount which the applicant believes to be the true cost to conduct the project which is the result of the application; and

WHEREAS, it is in the best interest of the City and those seeking to construct projects in the City for there to be a clearly defined method to determine whether the City's job cost calculation will actually exceed the true cost to construct the project which is the result of the application; and

WHEREAS, the provision of an appeal process that also will provide a method to allow applicants to continue with the construction of their projects will separate the issue of permit cost from the City's interest in allowing development project to continue; and

WHEREAS, such a process will allow those seeking to construct projects in the City to have assurance that their claim will ultimately be determined in a manner that will allow the project to go forward and preserve their right to seek a refund; and

WHEREAS, the creation of this administrative process requires the approval of the City Council through an amendment to the Building Code;

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: The Building Code of the City of Atlanta Georgia which appears in Appendix A of Part III at Chapter I entitled “Administration” is hereby amended by adding a new subsection as a part of Section 104.3, such new subsection to be entitled “Permit Fee Refund Requests for Completed Projects,” and which is to be numbered as Section 104.3.1 and which shall read as follows:

104.3.1. PERMIT FEE REFUND REQUESTS FOR COMPLETED PROJECTS.

(a) Upon full payment of the building permit fee calculated by the director, the owner of the property which is the subject of the permit (the “owner”) has the right to give notice to the director in compliance with this section that the job cost calculation on which the permit fee is based will exceed the actual cost to construct the building or structure which is the subject of the permit (the “project”) and seek a refund under the procedures set forth herein.

(b) The procedure set forth in this section shall be applied only where a project is actually completed and a temporary certificate of occupancy is issued except where procedures are authorized for projects where the permit has been issued but no work has been undertaken. There are no refunds authorized for projects in which the work is abandoned before the issuance of the certificate of occupancy for the project for which the request was filed or where the building permit has been revoked or has expired and such revocation or expiration has become final.

(c) The right to and method for seeking a review of the director’s determination of the amount of the building permit fee for a completed project and a decision as to whether the amount of the refund sought by the applicant on a completed project will be recommended to the governing authority under the procedures set forth herein is a refund request that is processed as an administrative appeal to the director.

(d) All notices from the director and decisions of the director denying any refund request shall be in writing. Appeals of such denials may proceed in the manner set forth elsewhere in the section. The director shall not be required to send any notice to any person other than a person designated under these procedures and it shall be the responsibility of the owner to update the contact person and address to which notices shall be sent in the event that either has changed.

(e) The director shall not be required to give notice that a deadline set forth in this section is about to expire. This section shall be considered sufficient notice of the actions required by such deadlines, and sufficient notice that the failure to meet such deadlines may result in the denial of a refund request.

(f) The procedures, under which the request for a refund authorized by this section is submitted, processed and either recommended to the governing authority by the director or denied by the director, shall be as set forth herein but the director is authorized for good cause shown in writing to extend certain deadlines as stated herein; provided however that that the date to file the initial notice of the request for refund shall under no circumstances be extended.

(g) The project shall have required the submission of plans and the calculation of the permit fee from such plans using Table 100.

(h) Initial notice of the request for refund must be given to the director within ten (10) days from the date of issuance of the permit for which the fee was paid by submitting the same to the director in the same manner as the building permit application was filed and must contain, at a minimum:

- (i) the permit number;
- (ii) the street address of the project;
- (iii) the permit fee amount paid;
- (iv) the permit holder's approximate expected cost to construct that part of the project for which the refund is sought;
- (v) a demand for refund and a statement that the amount of the demand;
- (vi) the name and street address for the person authorized to receive notices from the director. No post office box may be used to receive notice from the director;
- (vii) a statement agreeing that the payment of all reasonable costs associated with the director's review of the refund request will be paid before a final certificate of occupancy is issued.

(i) The director shall cause the initial notice of refund request to be made a part of the building permit application file but it shall be the responsibility of the owner to obtain an acknowledgment of the date that the refund request was filed with the director and maintain its own record of when such notice was actually given. Unless the owner can produce proof of timely notice or unless the director has sufficient proof of the date of receipt, the director is not authorized to process such request.

(i) The permit holder or the leaseholder of the property on which project is to be constructed shall have the same rights as the owner of the property to seek a refund of the permit fee charged but in no case shall the director be required to extend the time for the filing on an initial notice of a request for refund based on the failure of the permit holder to receive authorization to file the request however and from whom such authorization must be obtained.

(j) Within thirty (30) days of the date of the initial notice of the request for refund, two sworn affidavits shall be submitted to the director and unless such affidavits are submitted, the director is not authorized to process the request for refund and shall deny the request; provided however that for good cause shown in a written request

submitted to the director prior to the expiration of this period, the director may extend the time for compliance for a period not to exceed thirty (30) additional days:

- (i) the permit applicant shall submit an affidavit from a professional engineer or architect, registered in the State of Georgia, that the costs stated in the notice given to the director are not expected to exceed the actual cost to construct the project and shall specifically identify and agree to produce the data on which this statement is based after the certificate of occupancy is issued;
- (ii) the owner of the property, the leaseholder or the person who is responsible for payment of the cost to construct the project shall file an affidavit with the director stating that all forms of payment used to pay the total amount that will be paid to construct the project will be submitted as proof of payment of the job cost amount. The proof of payment is required to confirm that the job cost calculation on which the permit fee was based did exceed the actual cost to complete the project such that a refund is appropriate and will agree to produce such documents after the certificate of occupancy is issued in conjunction with the audit required by this section;
- (iii) both affidavits shall contain a statement that the affiant has on behalf of all entities who have or will provided goods or services to the project or have made or will make any payments to those who have provided or will provide goods or services to the project have consented or will consent to produce any document reasonably relevant to the project when requested by the director and will produce such documents upon the directors request;
- (iv) it shall not be sufficient for the purpose of the refund request to identify contract documents as the only documents which shall form the basis for either affidavit or the refund request and unless both affidavits contain an agreement to produce any document reasonably relevant to the project when requested by the director and to produce such documents upon the directors request, the director may deny the request;
- (v) any person who knowingly and willfully makes false statements in an affidavit used or attempted to be used to obtain a refund pursuant to this section may be prosecuted under the City Code or applicable state laws, including without limitation O.C.G.A. 1§ 6-10-71, and punished in the manner provided for conviction of such violations.
- (k) With respect to any refund request under an issued permit which is abandoned or withdrawn after work is begun but for which no temporary certificate of occupancy is issued or which has been revoked by the director prior to the issuance of the certificate of occupancy and such revocation has become final, the refund request shall be deemed withdrawn.
- (l) The owner shall, within thirty (30) days after issuance of the temporary certificate of occupancy notify the director of the name of a certified public accountant

licensed to practice in the State of Georgia (the “auditor”) that will conduct an independent audit of the project (the “audit”) on behalf of the owner for the purpose of seeking a refund from the City. The auditor’s report shall make a certified finding as to whether the affidavits submitted by the architect or engineer and the owner fairly represent the cost associated with the construction of the project and the amounts actually paid and if such representations by the architect or engineer and owner as made in their affidavits do or do not fairly represent the costs and payments associated with the construction of the project and state their opinion as to the amount by which the refund claim set forth in the affidavits should be adjusted.

- (i) The owner shall be responsible for engaging the auditor to conduct the audit and shall pay all costs associated with conducting the audit.
- (ii) The failure of the owner to notify the director in writing within sixty (60) days after issuance of the temporary certificate of occupancy that the auditor has been engaged and will complete the audit within thirty (30) days is cause for the request to be denied.
- (iii) A temporary certificate of occupancy issued for the purposes of a refund request shall meet all requirements for the issuance of a final certificate of occupancy so that the most accurate cost to complete the project can be obtained. It shall be in the owner’s sole discretion as to whether and when a temporary certificate of occupancy shall be requested and the director may issue such temporary certificate of occupancy under terms and conditions that would otherwise be allowed by the Building Code for the issuance of a final certificate of occupancy.
- (iv) Until the time required for final submission of the independent audit, the architect or engineer may amend the amount of the refund request to reflect any change in actual costs which would affect the amounts stated in the initial affidavit by submission of a new affidavit amending the first affidavit.
- (m) The owner shall present the result of the audit to the director within ninety (90) days after issuance of the temporary certificate of occupancy. The director may extend the time for submission upon request but the failure to submit the audit to the director by the agreed upon date shall be cause for the request to be denied.
- (n) In evaluating the audit, the director shall be entitled to receive any documentation relied upon by the auditor or such other documents as the director may reasonably deem relevant for review; provided however that such request shall be made by the director within thirty (30) days of the owner’s submission. The director may but is not required to engage an auditor to review the submission of the owner. The owner’s failure to produce the requested documents to the director within thirty (30) days without cause shall allow the director to deny the request.
- (o) Within sixty (60) days after the director has received all documents requested, the director shall make reasonable efforts to issue a written finding approving the

amount of the refund requested, recommending a different amount be refunded; or denying the refund request; provided however that the director's failure to make a finding shall in no circumstance be considered the director's approval of the request.

(i) If the owner disputes the director's denial of the administrative refund request or the director's decision to recommend a different amount and pays the director's cost to conduct the review, the owner may appeal from such decision to the Superior Court of Fulton County by filing with the clerk of said court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law.

- (1) Such appeal shall be filed within 30 days after decision of the director is rendered. Upon such filing, the clerk of the superior court shall give immediate notice thereof to the director.
- (2) Such appeal to superior court shall be served on the director as provided by law.
- (3) Within the time prescribed by law, the director shall cause to be filed with said clerk a duly certified copy of the administrative record created in connection with the refund request and such evidence on which his decision was based; provided however that the building plans for the project shall not be submitted as a part of the administrative record of the refund request unless the specific plan sheets are identified by the owner and the owner agrees to pay the cost of copying the original plans to be submitted to the court.
- (4) The process stated herein may also be used to appeal the director's denial of a refund request for failure to meet the deadlines required for the processing of the refund request provided however that the appeal of the director's denial of the refund request for failure to meet any of the deadlines for submission of documents shall be filed within thirty (30) days of the date of the written denial.

(ii) If no appeal of the director's decision to recommend that a different amount be refunded is filed within the thirty (30) days after such decision or the owner waives such appeal, the administratively approved request refund may proceed in the same manner as an approval.

(iii) The director may upon payment of the costs necessary to engage an auditor to review the submission of the owner issue a final certificate of occupancy.

(iv) The temporary certificate of occupancy issued for the purpose of processing the refund request shall not remain in effect for more than 180 days after the completion of the director's audit by which time, the owner or lessor shall have satisfied its obligations to pay the cost for such audit ordered by the

director. The failure to obtain a final certificate of occupancy shall be cause for the director to order the discontinuance of the occupancy of the structure

(p) After administratively approving a request for refund and payment by the owner of the director's cost to conduct the review, the director shall within a reasonable time cause the necessary legislation to be submitted to the governing authority. No administratively approved request refund of any permit fee under the process provided in this by section shall be paid until it has been legislatively adopted by the governing authority and approved by the mayor consistent the City Code and Charter.

(q) An appeal of the denial by the governing authority of the refund request shall be as provided by applicable law

(r) Except for those permit fees which required the submission of plans and the calculation of the amount of the permit fee using the data set forth in Table 100, no refund of any part of any other fee, including without limitation, impact fees, may be requested under this section and the director is not authorized to accept such requests for refunds. The director's refusal to accept a refund request which did not require the submission of plans and the calculation of the amount of the permit fee using the data set forth in Table 100 shall not be subject to the appeal provisions of this section.

(s) This section is provided solely to allow the Office of Buildings to make a determination through the director whether the determination of the job cost valuations by the use of Table 100 have resulted in a fee amount that is consistent with the actual cost to construct a project and is not intended for any other purpose, including without limitation, the appeal of fees determined by other means.

Section 2: The Mayor by and through the director of the Office of Buildings or a designee is authorized to undertake such steps as are necessary to implement the procedures set forth in this ordinance.

Section 3: The process set forth in this ordinance may be utilized by any current applicant who has not paid a final building permit fee or by any current applicant who has paid such fee within thirty (30) days prior to the effective date of this ordinance or who has an outstanding claim for refund that has not been otherwise resolved by action of the City Council and who declines a proposed resolution made available by the director of the Office of Buildings.

Section 4: This ordinance shall become effective when signed by the Mayor or as otherwise provided by operation of law.

<p>(Do Not Write Above This Line)</p> <p>AN ORDINANCE BY:</p> <p>AN ORDINANCE TO AMEND THE BUILDING CODE OF THE CITY OF ATLANTA REGARDING REQUESTS FOR REFUNDS OF BUILDING PERMIT FEES; AND FOR OTHER PURPOSES.</p>	<p>First Reading</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Referred To _____</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> </tr> </table>		<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Referred To _____</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p>	<p>Refer To _____</p>	<p>Refer To _____</p>
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<p><input type="checkbox"/> CONSENT REFER</p> <p><input type="checkbox"/> REGULAR REPORT REFER</p> <p><input type="checkbox"/> ADVERTISE & REFER</p> <p><input type="checkbox"/> 1st ADOPT 2nd READ & REFER</p> <p><input checked="" type="checkbox"/> PERSONAL PAPER REFER</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> </tr> </table>		<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p>	<p>Refer To _____</p>	<p>Refer To _____</p>
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<p>Date Referred <u>7/2/14</u></p> <p>Referred To: <u>CD/HZ</u></p> <p>Date Referred _____</p> <p>Referred To: _____</p> <p>Date Referred _____</p> <p>Referred To: _____</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> <td style="vertical-align: top;"> <p>Refer To _____</p> </td> </tr> </table>		<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p>	<p>Refer To _____</p>	<p>Refer To _____</p>
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<p>CERTIFIED</p>						
<p>FINAL COUNCIL ACTION</p> <p><input type="checkbox"/> 2nd <input type="checkbox"/> 1st & 2nd <input type="checkbox"/> 3rd</p> <p><input type="checkbox"/> Consent <input type="checkbox"/> V Vote <input type="checkbox"/> RC Vote</p>						